IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

WP(C).No. 28898 of 2007(M)

AGAINST THE ORDER IN IA.1880/2007 IN
OS.250/2007 of ADDL.SUB COURT,KOTTAYAM

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PETITIONER:

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1. K.NARAYANAN POTTY,
   S/O. MADHAVAN POTTY, PERIYAMANA MADATHIL,
   KUTTANADU TALUK,EDATHWA VILLAGE, RESIDING AT
   NISHA BHAVAN KUDAMALOOR P.O.KUDAMALOOR KARA,
   AYMANAM VILLAGE,KOTTAYAM TALUK.

2. K.MOHANAN POTTY,
   S/O. MADHAVAN POTTY, PERIYAMANA MADATHIL,
   KUTTANADU TALUK,EDATHWA VILLAGE, RESIDING AT
   NISHA BHAVAN KUDAMALOOR P.O.KUDAMALOOR KARA
   AYMANAM VILLAGE,KOTTAYAM TALUK.

BY ADV. SRI.ABRAHAM GEORGE JACOB

RESPONDENTS:

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1. KODIMATHA KOTTAYAM PALLIPURATHU KAVU
   BHAGAVATHY DEVASWOM TUST,KODIMATHA REPRESENTED BY
   ITS MANAGING TRUSTEE K.V.NARAYANAN UNNI,
   S/O VASUDEVAN UNNI,RESIDING AT KOTTARATHIL HOUSE,
   KODIMATHA KARA KOTTAYAM VILLAGE KOTTAYAM.

2. PALLIPURATHU KAVU REPRESENTED BY ITS
   MANAGING TRUSTEE K.V.NARAYANAN UNNI,
   S/O VASUDEVAN UNNI,RESIDING AT KOTTARATHIL HOUSE,
   KODIMATHA KARA KOTTAYAM VILLAGE KOTTAYAM.

3. K.V.NARAYANAN UNNI,RESIDING AT
   KOTTARATHIL HOUSE,KODIMATHA KARA KOTTAYAM VILLAGE
   KOTTAYAM ,MANAGING TRUSTEE OF KODIMATHA KARA
   PALLIPURATHU KAVU BHAGAVATHY DEVASWOM TRUST.

BY ADV. SRI.ANIL SIVARAMAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P(C) 28898/07

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF THE LETTER DT. 20.2.2005 ISSUED BY THE 3RD RESPONDENT

EXT.P2: -DO- OF I.A.NO: 1880/07 DT. 16.7.2007

EXT.P3: -DO- OF THE OBJECTION FILED BY THE RESPONDENTS IN I.A. 1880/07 DT. 16.8.2007

EXT.P4: -DO- OF THE ORDER DT. 14.9.2007 IN I.A. NO: 1880/07

RESPONDENTS' EXTS:

EXT.R3A: -DO- OF THE JUDGMENT IN O.S.NO: 611/05 DT. 4.6.2007

EXT.R3B: -DO- OF THE DECREE IN O.S. 611/05 DT. 4.6.2007

EXT.R3C: -DO- OF THE SCHEME

jj /TRUE COPY/

P.S. TO JUDGE

M.N.KRISHNAN, J

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W.P.(C) No.28898 OF 2007

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Dated this the 12th day of December 2007

JUDGMENT

This writ petition is preferred against the order of the Sub Court, Kottayam in I.A.No.1880/2007 in O.S.No.250 of 2007. It is an application filed by the plaintiffs for attachment before judgment under Section 151, Order 38 Rule 5 r/w Order 21 Rule 52 C.P.C. Plaintiffs have instituted a suit for realisation of arrears of salary as trustees of the temple. The entitlement to such salary is disputed by the other side. Learned counsel for the respondents would submit that there are movable and immovable assets for the temple whereas on the other hand, learned counsel for the petitioners would submit that there is heavy liability on the trust and therefore in order to safeguard their interest, attachment has to be ordered on the amount they are going to receive from the receiver. There is no dispute that there are some properties to the temple. When the very factum of entitlement itself is disputed and when there is something on record to say that there is some property for the temple, I do not consider it necessary to direct the respondents to furnish other security in the event of the

plaintiffs succeeding in the suit. If ultimately plaintiffs succeed the court can make a charge on the property and decree the suit. Therefore, though on different grounds, I decline to interfere with the decision rendered by the court below and therefore the writ petition is dismissed.

M.N.KRISHNAN, JUDGE

Cdp/-